

**BY ORDER OF THE SECRETARY
OF THE AIR FORCE**

AIR FORCE INSTRUCTION 36-3035

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Personnel

**PHYSICAL DISABILITY
BOARD OF REVIEW**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This publication implements Air Force Policy Directive (AFPD) 36-30 *Military Entitlements*, and Department of Defense Instruction (DoDI) 6040.44, *Physical Disability Board of Review (PDBR)*. It establishes procedures for reviewing, in accordance with the guidance found at DoDI 6040.44, Enclosure 3, the disability rating(s) and/or finding(s) of fitness awarded to a military member separated between September 11, 2001 and December 31, 2009, but found not eligible for retirement. It explains how to apply for this review and the responsibilities of the offices that process applications, perform the reviews and act upon the recommendations. It applies to all current and former members of the Regular Air Force, Air Force Reserve, Air National Guard and anyone with proper interest in the correction of an Air Force military record.

In collaboration with the Chief of Air Force Reserve (HQ USAF/RE) and the Director of the Air National Guard (NGB/CF), the Deputy Chief of Staff for Manpower, Personnel, and Services (HQ USAF/A1) develops personnel policy for Physical Disability Board of Review (PDBR). This Air Force publication may be supplemented at any level; MAJCOM-level supplements must be approved by the HSB prior to certification and approval. The authorities to waive wing/unit level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T-3") number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional chain of command. This Instruction requires collecting and

maintaining information protected by the Privacy Act of 1974. System of Records Notices (SORN) F036, Air Force Correction Board Records apply and are available at: <http://dpcl.o.defense.gov/Privacy/SORNs.aspx>.” Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of IAW the Air Force Records Disposition Schedule (RDS) in the Air Force Records Information Management System (AFRIMS). This is an initial publication.

1. The Physical Disability Board of Review (PDBR). The PDBR is a Congressionally mandated board that reviews certain separations for medical conditions where the rating was 20% or less and the member did not otherwise retire. The Under Secretary of Defense for Personnel and Readiness retains overall responsibility for the board, but has designated the Air Force as lead agent for implementing the process.

2. Responsibilities.

2.1. Secretary of the Air Force. The responsibilities of the Secretary of the Air Force are delineated in DoDI 6040.44, Enclosure 2, paragraph 5.

2.2. President PDBR. DoDI 6040.44, Enclosure 2 sets forth the qualifications for the President. The President will be responsible for:

2.2.1. Ensuring PDBR operations are in compliance with DoDI 6040.44, Enclosure 3 and this instruction, and conducted in a manner consistent with policy guidance and direction provided by the Secretary of the Air Force, and the Assistant Secretary of Defense for Health Affairs (ASD (HA)).

2.2.2. Ensuring PDBR members and staff are properly trained.

2.2.3. Ensuring PDBR operations are conducted in an effective and efficient manner with transparency and accountability.

2.2.4. Ensuring case reviews are scheduled to give equitable consideration to requests regardless of status, service or component affiliation.

2.2.5. Establishing and maintaining a liaison with those offices in the Army, Navy, Coast Guard and Air Force that implement disability processing.

2.2.6. Establishing and maintaining a liaison with the Department of Veterans Affairs (DVA).

2.2.7. Maintaining access to, or awareness of, Army, Navy, Coast Guard and Air Force policies governing the Medical Evaluation Board (MEB) and Physical Evaluation Board (PEB).

2.2.8. Managing timeliness and tracking performance on meeting the various time guidelines IAW DoDI 6040.44, Enclosure 3 paragraph 5.

2.2.9. Supporting the DES Quality Assurance Process consistent with DoD Instruction 1332.18, “Disability Evaluation System (DES),” August 5, 2014, and DoD Manual 1332.18, Volume 3, “Disability Evaluation System (DES) Manual: “Quality Assurance Program,” November 21, 2014.

2.3. Chief Joint Central Adjudication Unit (JCAU) The Chief JCAU will be responsible for overall operation of the JCAU which reviews the disability rating using the guidance in DoDI 6040.44, Enclosure 3 and reaches a recommendation on each application.

2.3.1. Ensures board members are properly designated on orders.

2.3.2. The Chief JCAU will be responsible for the overall operations of the Central Intake Unit (CITU) which receives and reviews applications, obtains and assembles the military and DVA records necessary to perform the required review.

2.3.3. Acts as the liaison with DVA to address issues between DVA and the PDBR.

2.3.4. Assigns case processing and board duty responsibilities to board members on a fair and equitable basis, ensuring that the component representation requirements listed in DoDI 6040.44, Enclosure 3 are met.

2.3.5. Ensures adequate administrative support (copiers, scanners, IT equipment, etc.) for board operations.

3. Application Procedures.

3.1. Who May Apply. The covered individual, their surviving spouse, next of kin or legal representative.

3.2. Getting Information and Forms. Information on the PDBR process including frequently asked questions and links to the application (DD Form 294, *Application for Review of Physical Disability Separation from the Armed Forces of the United States*) can be found at the following web site: <http://www.health.mil/pdbr>.

3.3. Submitting the Application. Applicants should complete all applicable sections of the DD Form 294 including at least:

3.3.1. The name under which the member served.

3.3.2. The member's social security number and branch of service.

3.3.3. The applicant's current mailing address.

3.3.4. The date of separation and percentage of disability awarded.

3.3.5. Consent to release of DVA Records.

3.3.6. Proof of proper interest if requesting correction of another person's records.

3.3.7. The applicant's signature.

3.3.8. Applicants should mail the original signed DD Form 294 and any supporting documents to the address on the back of the form. (SAF/MRBR, 550-C Street West, Suite 41 Randolph AFB, TX 78150-4743).

3.4. Information Accompanying an Application. An applicant may submit statements, briefs, medical records, documentary evidence outside DoD possession, or affidavits in support of his/her application.

3.5. Counsel Representation. Applicants may be represented by counsel, at their own expense. Personal appearance, with or without private counsel, is not allowed. The term

"counsel" includes members in good standing of the bar of any state and accredited representatives of veterans organizations recognized under 38 USC§ 5902.

3.6. Board Initiated Review. There may be situations where it is appropriate for the PDBR to initiate a review of one or more covered individual's disability ratings.

3.6.1. If the President approves the board review, he or she will notify the member, their surviving spouse, next of kin, or legal representative of the proposed review and the rationale for conducting it. The President will document consent to the proposed review by asking them to submit a DD Form 294. If the potential applicant does not consent to the review, no further action will be taken, but the notification and election correspondence and a brief synopsis of the facts and circumstances that supported the board request for review will be made a matter of record.

3.6.2. Refusal to consent to a board review will not prevent the member, their surviving spouse, next of kin or legal representative from subsequently requesting review.

4. Case Processing .

4.1. Upon receipt of an application, the CITU will open a case in the current case management database and ensure that the DD Form 294 is signed, submitted by a proper applicant, and has all required information, acknowledgements and releases. Applications not signed will be rejected and returned to the applicant for proper signature.

4.2. **Deficient Applications.** If the application is deficient, the CITU will notify the applicant by email or in writing providing a detailed explanation of the application's deficiencies. The applicant will be advised that they will have 60 days to remedy the deficiency; and that if the application is not remedied, or no answer is received within that time frame, the case will be closed without prejudice. If the application is complete, but the Chief, JCAU determines from its face that it does not meet the criteria for review, (for example the separation date was prior to September 11, 2001) the application will be rejected. The applicant will be notified in writing or email of the rationale for the rejection and of the option to appeal to the appropriate Board for Correction of Military Records.

4.3. If the application is accepted, the CITU will acknowledge and provide the applicant with the case tracking identification number for future reference. This receipt notice will also inform the applicant that they may provide additional documentary evidence outside DoD possession.

4.4. If the applicant has indicated in the application that a DVA disability rating has been awarded, the CITU will ensure the applicant has provided a copy of the VA Form 3288 and/or signed the VA consent portion of the DD Form 294. The failure to provide consent election will not render an application deficient.

4.4.1. If the applicant refuses to consent to DVA record access the disability rating assigned by the PEB will be evaluated for fairness and accuracy with the information available, but the comparison to the subsequent DVA rating discussed in DoDI 6040.44, Enclosure 3, Paragraph 4 a. (5) (a), (b) will not be performed. Note: This consequence of non-consent (or lack of access) to DVA records is explained in the instructions to the DD Form 294.

4.4.2. Once an application is determined to be complete and within the adjudicative guidelines of DoDI 6040.44, CITU will obtain; 1) PEB and MEB records from the appropriate Service PEB organization; 2) DVA rating decisions and associated examination results, and; 3) service treatment records (STR) from the Veterans Affairs Regional Offices or other applicable DVA function. These record elements constitute a complete case-file that will enable the PDBR to fairly reassess an applicant's current DoD disability rating. Once scanned, the DD Form 149 and any attachments, will be maintained on file until adjudication has been completed and the case has been closed, then destroyed.

4.4.3. Missing Records - Adjudication Not Impacted: Normally only complete case files will be adjudicated. If the CITU has been unsuccessful in obtaining copies of required documents (even after requesting the applicant's assistance) or anticipates an excessive delay in obtaining such documents and believes the case can be adjudicated without the records; it should contact the JCAU for guidance and/or permission to forward an incomplete case file. If permission is granted, the CITU will notify the applicant of the transmittal and the determination that the case will be adjudicated without the records.

4.4.4. Missing Records - Adjudication Impacted: If records cannot be located, and, in the judgment of the JCAU the adjudication is likely to be impacted, the applicant will be notified and asked if they have copies of such records and/or information as to where they may be located. The applicant will also be advised; 1) that the Board will perform the required review without the records; 2) that the applicant may submit a statement(s) or other evidence about the content of the missing records and 3) that the applicant can request withdrawal or suspension of the application at this time without prejudice to a subsequent request to review. If the applicant identifies where the records might be found, the CITU will attempt to locate and include the records. If the records cannot be located, or additional attempts to find them are unsuccessful, the CITU will place the correspondence and any response statements submitted by the applicant in the case file and forward it to the JCAU.

4.5. Withdrawal and Suspension of Application Processing. An applicant may withdraw an application, without prejudice, any time prior to final determination. An applicant need not justify or explain a request for withdrawal. Upon receiving a request for case withdrawal the CITU will acknowledge receipt and update the case status in the case management database. An applicant may resubmit a previously withdrawn case. The CITU will also accept requests for resumption of processing of cases previously withdrawn. Time in a withdrawn status will not be included in computing case processing statistics.

4.6. Reconsideration. In accordance with 10 USC 1554a(e)(3), the decision of the Secretary concerned or Designated Decision Authority (DDA) is final. The PDBR will deny requests for reconsideration of a final decision.

4.7. Election of Forum. In accordance with 10 USC 1554a(c)(4) and DoDI 6040.44, Enclosure 2, para 4.d.1, members who file with the PDBR waive their right to petition their Service Board for Correction of Military Records concerning the issues being reviewed by the PDBR. To ensure proper implementation of this limitation, the CITU will provide the names of PDBR applicants to the Service BCMRs.

5. Case Adjudication Procedures . Guidelines and parameters on case adjudication are at DoDI 6040.44, Enclosure 3.

5.1. Board Member Composition. Each board will consist of a qualified medical officer and two additional members. Board members will be senior military or civilian members in the grade equivalent of O-5 or GS-14 or higher. If the applicant is a member of a Reserve or Guard component, at least one of the board members will be a member of the Guard or Reserve.

5.2. Board Member Responsibilities.

5.2.1. Board members will review the synopsis of the case and the case file as necessary to be familiar with the facts and circumstances of the injury or disease and the processing history of the disability rating.

5.2.2. Board members will recuse themselves if they previously participated in the applicant's disability evaluation process, or if they determine there is any reason why they cannot fairly and impartially consider the case.

5.2.3. Board members will avoid favoring or disfavoring any applicant based upon the board member's or applicant's grade/rank, branch of service, or component.

5.2.4. Board members will vote solely on the merits of the case without consideration of extraneous matters, such as the amount of money involved, or potential embarrassment to personnel involved in the original rating determination.

5.2.5. Board members will not attempt to use grade, rank or position of authority to persuade or influence the vote of any board member. In accordance with the guidance of DoDI 6040.44, the majority vote of the board is the recommendation of the board.

5.3. Board Deliberations. Normally only members of the board will be present during deliberations. The Presiding Officer (PO) may permit observers for training purposes or otherwise in furtherance of the functions of the board.

5.4. Post-Board Processing.

5.4.1. The President will review the ROP and ensure each PDBR review addresses the full range of medical issues and concerns raised by the applicant on medical issues and the interpretation of laws, medical standards, and policies defining a physical disability.

5.4.2. The President will return case files found to be inadequate or incomplete to the PO for the case with an explanation of concerns or deficiency, and with direction for additional documentation, consideration or analysis as appropriate.

5.5. The President will approve and sign each ROP and transmit the case file, ROP and the board majority's recommendation to each Designated Decision Authority. If the President does not concur with the recommendation of the board, the President may forward a separate recommendation to the DDA, but will fully explain the rationale for that recommendation.

6. Quality Assurance Program. The PDBR will administer Disability Evaluation System (DES) quality assurance consistency reviews in accordance with section 4 of Enclosure 3 of DoD Instruction 1332.18, "Disability Evaluation System (DES)," August 5, 2014.

7. Statistics, Performance Management and Reports . The President will ensure: that the performance of the PDBR process is tracked using modern performance management tracking tools; that all statistical analyses are accomplished, and that all required reports are prepared in a timely manner.

DANIEL R. SITTERLY

Acting Assistant Secretary of the Air Force
Manpower and Reserve Affairs

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 36-30, Entitlements, April 28, 2015

AFMAN 33-363, Management of Records, March 1, 2008

DoDI 6040.44, Physical Disability Board of Review (PDBR), July 2, 2015

DoD Instruction 1332.18, "Disability Evaluation System (DES)," August 5, 2014

DoD Manual 1332.18, Volume 3, "Disability Evaluation System (DES) Manual: Quality Assurance Program," November 21, 2014.

AFI 33-332, Air Force Privacy and Civil Liberties Program, January 12, 2015

Prescribed Forms

DD Form 294

Abbreviations and Acronyms

AFMAN— Air Force Manual

AFPD— Air Force Policy Directive

AFRBA— Air Force Review Boards Agency

AFRIMS— Air Force Records Information Management System

BCMR— Board for Corrections of Military Records

CITU— Central Intake Unit

DD— Department of Defense (as used on forms)

DDA— Designated Decision Authority

DoD— Department of Defense

DoDI— Department of Defense Instruction

DVA— Department of Veterans Affairs

IAW— In Accordance With

JCAU— Joint Central Adjudication Unit

MEB— Medical Evaluation Board

OPR— Office of Primary Responsibility

PDBR— Physical Disability Board of Review

PEB— Physical Evaluation Board

PO— Presiding Officer

RDS— Records Disposition Schedule

ROP— Record of Proceedings

SAF— Secretary of the Air Force

SAF/LLMI— Office of Legislative Liaison, Inquiry Division

SAF/PAO— Office of Public Affairs

STR— Service Treatment Record

USC— United States Code

VA—Veterans Administration